

MICHIGAN EMPLOYER ADVISOR

Summer 2012

FROM THE
director



Dear Employer:

Every day members of our armed services return to Michigan seeking to restart careers and be part of our communities. Unfortunately for some of our veterans, this transition to reemployment can be challenging.

The State of Michigan and the UIA is working to expand access to employment opportunities for unemployed veterans. To date, Michigan has the 11th largest veteran population in the country, comprising nearly seven percent of the state's population. By bringing unemployed Michigan veterans together with qualified employers, we grow Michigan's economy; and assist those who have made great sacrifices for our country.

Michigan's employers are the most valuable resource we have to assist our nation's heroes with their transition into civilian life. Many of you may already have veteran's hiring initiatives in place, but if you don't, please consider veterans when it's time for you to hire. Veterans possess the leadership, teamwork, attitude and integrity you seek.

The UIA manages the Work Opportunity Tax Credit (WOTC) program, which gives tax credits to employers who hire veterans and other targeted groups. We can help returning veterans get back into the work force. Visit the UIA website for information about [WOTC](#).

If you are interested in learning more about how to be connected to the veteran community, please contact the UIA's WOTC unit at 1-800-482-2959.

Sincerely,

Steve Arwood, UIA Director/LARA Deputy Director

THE MICHIGAN EMPLOYER ADVISOR

is an Unemployment Insurance Agency periodical for Michigan Employers about unemployment insurance. Submissions should be related to UIA programs and services.

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Employer Amnesty Program Resolves Worker Classification Issues

Misclassification of employees is a problem that impacts employers, workers and government. Misclassification occurs when an employer hires a worker and improperly classifies the person as an “independent contractor,” rather than as an “employee.” Misclassification may also occur when a worker asks that no taxes are withheld from their pay. When workers are misclassified they may not qualify for certain benefits, while governments lose important tax revenues. Employers who unfairly misclassify employees as independent contractors achieve an unfair business advantage by avoiding paying unemployment taxes, income taxes and workers’ compensation premiums.



There are penalties that result from intentional misclassification of employees. When the UIA finds an employer has been misclassifying its employees, the Agency requires the liable employer to pay the required unemployment taxes, become the liable employer as required by the Michigan Employment Security (MES) Act, and be scheduled for future audits to ensure compliance.

Public Act 269 of 2011 added Section 42a to the MES Act, which established an amnesty program for employers. The amnesty program offers an attractive way to resolve worker classification issues at a reduced cost and eliminates prospective tax uncertainty.

Through December 31, 2012, employers who have classified some or all of their workers as “independent contractors” can request the UIA to review that classification. The UIA will issue a Determination as to whether those workers are indeed “independent contractors” or instead must be classified as “employees.” Employers are not obligated to participate in the amnesty program; however, all employers, regardless of whether the UIA may have already initiated a compliance audit, claims investigation, or liability investigation are eligible to participate.

If the UIA determines that the workers were incorrectly classified as “independent contractors,” the UIA will not assess unemployment tax on those misclassified wages prior to the date of the determination, nor will the UIA assess interest or penalties on the amounts determined to be wages paid to the workers previously considered independent contractors prior to the date of the determination.

Misclassified Workers Can Be Paid Resulting Benefits, But Employers Will Not Be Charged

Any workers determined to have been improperly classified as independent contractors will be considered to have earned wages with the employer. If the worker becomes unemployed and files a claim for unemployment benefits, those wages can be used for the claim if they fall within the “base period” of the claim. Employers participating in the amnesty program will not be charged for those benefits. The employer would only be charged for benefits based on wages paid after the date of the Determination issued under the amnesty program.

Employer Amnesty Program Resolves Worker Classification Issues *cont'd from page 2*

When the amnesty program ends on December 31, 2012, the UIA will use the IRS 20-factor test to determine a worker's independent contractor classification (for more information from the IRS, [click here](#)). Beginning January 1, 2013, interest and penalties will be assessed on unemployment taxes that were underpaid as a result of the misclassification of workers as independent contractors.

For an [Employer Tax Amnesty Application](#), visit the UIA website at michigan.gov/uia. For questions about amnesty program, contact the Office of Employer Ombudsman (OEO) at 1-855-4UIAOEO or 313-456-2300 or by email at OEO@michigan.gov.

2012 Employer Seminars Filling Up Fast

If you haven't attended one of the UIA's 2012 Employer Seminars – act fast! Within weeks of posting the 2012 Employer Seminar schedule online, sessions were booked solid in Detroit, Traverse City, Saginaw, Flint, and Troy. With over 3,000 businesses registered, and hundreds on a waitlist, the Office of the Employer Ombudsman and subject matter experts from around the UIA continue to educate the employer community regarding changes within the UI system. This year's seminars cover hot topics such as:

- UI Legislative Updates
- MiWAM
- UI Tax & Benefit Fraud
- New Combined Form UIA 1028
- How an Employer's Tax Rate is Calculated
- Working Part-Time and Collecting Unemployment Benefits
- Seasonal Designation Changes
- ...and more

These seminars are offered in partnership with the Michigan Economic Development Corporation's Pure Michigan Business Connect & the Workforce Development Agency.

Although some of the remaining sessions are full, there are several still available around the state. Visit the UIA website at michigan.gov/uia to see the [full schedule](#) and to register for a seminar in your area. If you're unable to get to one of the seminars, presentations are also available on line at michigan.gov/uia. Click on [2012 Employer Seminar Presentations](#).

For questions about the seminars, please call the Office of the Employer Ombudsman at (855) 484-2636 or (4-UIAOEO), 313-456-2300 or email OEO@michigan.gov.



EWAM is Changing to MiWAM



As part of the Agency's initiative to upgrade and improve our services, EWAM (Employer Web Account Manager) is being re-branded as MiWAM (Michigan Web Account Manager), beginning in August. We are retooling our computer system to offer more opportunity for efficient, expedient and secure business transactions between our agency and Michigan employers.

As part of the UIA's initiative to upgrade and improve our services, the Agency is introducing the Michigan Web Account Manager (MiWAM). In August 2012, MiWAM, will replace the Employer Web Account Manager (EWAM), as the UIA's new and improved system for managing your unemployment account electronically. MiWAM makes doing business with the UIA faster, more efficient and more user-friendly.

MiWAM will allow you to perform routine transactions such as filing reports, paying taxes, viewing statements and updating your unemployment tax account information on line. All this at no charge to employers, and with 24-hour access.

For employers, managing your account with MiWAM is secure, it's more accurate, processing is quicker, and it allows for more real-time interaction with UIA staff. For the UIA, MiWAM helps reduce the costs of processing certifications, reduces paper and scanning costs and reduces keypunching and other errors.

MiWAM displays a new look, and boasts new enhancements that will simplify and improve functionality for both employers and service providers, while continuing all the current benefits of EWAM. Some new enhancements include:

Updated and simplified navigation,

- The automated establishment of a MiWAM account upon successful completion of registering a new business,
- The ability to file tax reports and make payments the same day your MiWAM account is established,
- Ability for service providers to establish a MiWAM account to perform services for their clients on-line,
- Respond to fact finding questions
- Schedule recurring payments
- File quarterly wage/tax/payroll reports
- ...and more

Watch your mail for an instructional Toolkit which will include information you need to help ensure an easy transition to MiWAM. Included in your Toolkit will be MiWAM login instructions, bulk filing formats, contact information for technical support, and much more. Look for your Toolkit during the month of July 2012. The Toolkit will also be available on the UIA website.

For questions, please contact the Office of Employer Ombudsman (OEO) unit at 1-855-4UIAOEO (855-484-2636). Outside of Michigan, please call 1-313-456-2300. You can also email your questions to OEO@michigan.gov.



Understanding Suitable Work

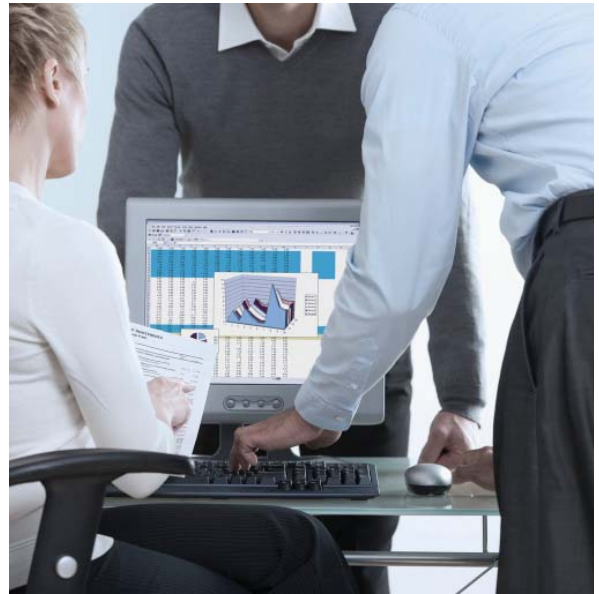
Michigan's unemployment insurance law was amended to require individuals collecting unemployment benefits to actively seek full-time suitable work. In fact, before the claimant has received 50 percent of his/her benefit entitlement on an unemployment claim, the claimant must accept a job that pays at least 70 percent of his or her gross wage before becoming unemployed.

The law relies on the following criteria to determine suitable work:

- Prior earnings
- Length of employment
- Prior training and work experience
- Distance of the offered work to the worker's place of residence
- The degree of risk involved to the worker's safety and health

After collecting 50 percent of his or her entitled weeks, an unemployed worker must apply for and accept work that is outside of his or her past training and experience if the pay meets the following criteria:

- 120 percent of his or her weekly benefit amount (WBA)
- The average wage for the particular work in the locality where the work is offered; and
- The state minimum hourly wage (currently \$7.40 an hour)



Steps Employers Should Take

Employers should communicate the offer of suitable work to a specific worker with specific details about the job. Providing a "sign up" sheet for workers to use in responding to a generalized offer will not suffice.

If a worker refuses an offer of work, the employer should notify the UIA of the refusal in writing, along with the following: A copy of the offer, specifics on who offered it and how it was offered (e.g., verbal, written, posted, personally delivered), how the work compares to work previously performed for the employer by the claimant, and the reason given by the claimant for refusing the work that was offered.

Actions the UIA Will Take

The UIA will use the employer's information to question the claimant about the offer and why he/she refused the work. If the claimant cannot show good cause for refusing an offer of suitable work, the UIA will suspend benefit payments for 13 weeks and reduce the claimant's balance of weeks of benefits by 13 weeks (or the number of weeks remaining on the claim, if fewer than 13). Additionally, if the claimant explained to the employer or UIA that he/she refused the work because he/she did not want to jeopardize or reduce his/her unemployment benefits, the UIA will adjudicate the issue of lost earnings and will consider earnings that were turned down as if they had actually been earned. For additional information about refusal of suitable employment, please contact the Office of the Employer Ombudsman at 1-855-484-2636 or email OEO@michigan.gov. A fact sheet about [suitable work](#) can be found on the UIA website at www.michigan.gov/ui.

Federally-funded Unemployment Benefits Reduced Due to State's Decreased Unemployment Rate

The U.S. Department of Labor recently notified the State of Michigan that Tier 4 of the Emergency Unemployment Compensation (EUC) program will end as Michigan's jobless numbers are below the level required by federal law to continue Tier 4 of the program. The state's unemployment rate has to remain at 9 percent or more to be eligible for all four tiers of the program. Michigan's unemployment rate was at 8.3 percent in April.

EUC currently offers up to 63 weeks of benefits to unemployed workers who exhaust their 26 weeks of UI benefits. The program is scheduled to decline until it expires at the end of the year. People who are already on the fourth stage of EUC benefits will be able to continue collecting until they exhaust their claim.

The UIA is in the process of notifying claimants affected by this change. Additionally, the UIA continues to partner with Michigan Works! Service Centers to offer valuable re-employment, training and educational opportunities and to provide resource information to claimants regarding other available state resource programs including training and educational opportunities, as well as other supportive services that may be available.

For additional information regarding changes to the EUC program, claimants may contact the UIA in the following ways:

- Call the UIA Customer Service Line at 1-866-500-0017 to speak with an agent. Agents will be available from 8:00 a.m. to 4:30 p.m., EST, Monday through Friday. TTY customers should call 1-866-366-0004.
- Visit the UIA website at www.michigan.gov/ui to review EUC program updates or to submit an inquiry to the Agency's Virtual Problem Resolution (ViPR) agents who are available Monday through Friday from 8:00 a.m. to 4:30 p.m., EST.
- Visit a local UIA Problem Resolution Office (PRO) to speak with an agent in person. PRO offices are open from 8 a.m. to 4 p.m. in Detroit, Gaylord, Grand Rapids, Lansing, Mt. Clemens, Marquette, Muskegon and Saginaw. Please visit the UIA website at www.michigan.gov/ui to view [PRO locations](#).
- Call the Agency's EUC hotline, 1-800-638-3995, for pre-recorded updates about the EUC program.

Unemployment Insurance Fraud Costs Everyone

Everyone is a victim when it comes to unemployment insurance fraud. UI fraud increases unemployment taxes for businesses, threatens the availability of funds for people with legitimate UI claims and strains the state's unemployment trust fund. Michigan, along with the USDOL and many other states, remains focused on assuring that UI payments are being made to individuals who are eligible to receive them while assuring safeguards are in place to cease improper payments.

Michigan is tough when it comes to unemployment fraud. A person caught committing fraud faces possible criminal prosecution, fines, and penalties of up to four times the amount received in fraudulent payments. Fraud overpayments can also result in denial of further benefits for the duration of the benefit year. Any future benefits may also be used to pay restitution.

Wondering what constitutes unemployment fraud?

For workers, unemployment fraud can include

- Working full-time while collecting benefits and not reporting hours of work and earnings to the UIA
- Supplying intentionally misleading information or failing to disclose information such as vacation/holiday pay, severance pay, or other pay after job separation
- Using another person's identity (name or social security number) to work and/or file a UI claim.

For employers, unemployment fraud can include:

- Dealing in cash only or using other schemes to hide their activities and their true tax liability
- Providing false information to prevent an otherwise eligible claimant from obtaining benefits
- Incorrectly reporting wages or intentionally misclassifying employees as independent contractors.

What is the UIA doing to combat fraud?

Over the past year, the UIA has garnered success by combining aggressive strategies to combat fraud and overpayments with customer education. To date, Michigan's Unemployment Insurance Agency has partnered with the U.S. Department of Treasury to reclaim nearly \$4 million in unemployment compensation benefits collected by means of fraud.

The UIA cross matches its records with the National Directory of New Hires, a national database containing employment and wage information on working Americans. Agencies such as the UIA use the National Directory of New Hires to verify program eligibility, prevent or end fraud, collect overpayments or assure that benefits are correct.

When the UIA gets a "hit" from the National Directory of New Hires, the UIA requests employment and wage information from the employer, while simultaneously requesting details from the claimant about the period of employment in question. Making claimants aware of a possible overlap in receiving unemployment benefits while working provides for a quicker end to fraudulent claims and overpayments.

Detect Fraud. Prevent Fraud

The State has also taken an upfront approach to educating our customers about fraud. Customers should notice messaging on how to detect and prevent fraud via billboards, bus posters, public service announcements, radio ads, Internet ads, fact sheets and articles.

Click here for more information about [UI fraud](#) on the UIA website. If you think someone is committing unemployment benefit or payroll tax fraud, report it online with the UIA [2-minute fraud reporting form](#) or call the fraud hotline at 1-855-UI-CRIME.



Question: When a school employee performs coaching duties, it may be for a specific sport and specific season. They usually get a stipend at the end of the season.

Why then do school districts have to pay unemployment if the person gets laid off from their regular job even if they will be coaching again for the next year's season? Is there a way to avoid this issue that does not seem very just?



Answer: Individuals who perform services for schools (except private schools) are subject to a provision of the unemployment compensation law called the "denial period." This provision prevents the payment of unemployment benefits, chargeable to the school, to school workers during periods between academic years or terms (and in some cases during school recess periods within a school term) if the school has given the individual "reasonable assurance" that he or she will have a job with the school at the start of the next academic year or term.

Coaches work for a school during a sports season which typically is not coincident with the academic year. Because the "denial period" specifically applies between academic years, a coach would not be subject to the denial period during the gaps (1) between the end of the sports season and the end of the academic year, and (2) the beginning of the next academic year and the beginning of the next sports season.

For more information on the School Denial Period, please call the Office of Employer Ombudsman at (855) 484-2636 or email OEO@michigan.gov.

If you have a question for "Ask the Lawyer," please submit it to: employeradvisor@michigan.gov. Please indicate if you would like to remain anonymous.



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Rick Snyder
Governor, State of Michigan
Steven H. Hilfinger
Director, LARA

Steve Arwood
Director, UIA
Mario L. Morrow
Director, Office of Communications, LARA
Lynda M. Robinson
Editor, Office of Communications, LARA

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State of Michigan, Department of Licensing and Regulatory Affairs, Unemployment Insurance Agency, Authority, UIA Director,
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